



March 18, 2005

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## ENGROSSED SENATE BILL No. 218

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DIGEST OF SB 218 (Updated March 17, 2005 11:11 am - DI 97)

**Citations Affected:** IC 9-19.

**Synopsis:** Safety belts. Provides that evidence of the failure to comply with the laws concerning safety belt use may be admitted as evidence in a civil action to reduce damages for injury to a person, and may limit the liability of an insurer. Provides that the defendant has the burden of establishing that use of a safety belt would have reduced damages.

**Effective:** July 1, 2005.

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**Nugent, Simpson, Bray, Howard,  
Hershman**

(HOUSE SPONSORS — WHETSTONE, KUZMAN, BECKER, SMITH V)

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January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 17, 2005, amended, reported favorably — Do Pass.

February 21, 2005, read second time, ordered engrossed.

February 22, 2005, engrossed.

February 24, 2005, read third time, passed. Yeas 27, nays 22.

HOUSE ACTION

March 8, 2005, read first time and referred to Committee on Insurance.

March 17, 2005, reported — Do Pass.

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ES 218—LS 6796/DI 107+



March 18, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 218

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-19-10-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Failure to comply  
3 with section ~~1~~, 2 ~~3~~, or ~~4~~ of this chapter does not constitute fault under  
4 IC 34-51-2. ~~and does not limit the liability of an insurer.~~

5 (b) ~~Except as provided in subsection (c);~~ Evidence of: ~~the~~

6 (1) failure to comply with section ~~1~~, 2 ~~3~~, or ~~4~~ of this chapter may  
7 ~~not~~ be admitted in a civil action to ~~mitigate~~ **reduce** damages **for**  
8 **injury to a person; and**

9 (2) ~~(c) Evidence of a~~ failure to comply with this chapter may be  
10 admitted in a civil action as to mitigation of damages in a product  
11 liability action involving a motor vehicle restraint or supplemental  
12 restraint system.

13 (c) The defendant in ~~such~~ an action **described in subsection (b)(1)**  
14 has the burden of proving:

15 (1) noncompliance with **section 2 of** this chapter; ~~and~~

16 (2) that compliance with **section 2 of** this chapter would have  
17 reduced injuries; and

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ES 218—LS 6796/DI 107+



- 1           (3) the extent of the reduction.  
2           (d) The defendant in an action described in subsection (b)(2) has  
3           the burden of proving:  
4           (1) noncompliance with this chapter;  
5           (2) that compliance with this chapter would have reduced  
6           injuries; and  
7           (3) the extent of the reduction.

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SENATE MOTION

Madam President: I move that Senator Bray be added as coauthor of Senate Bill 218.

NUGENT

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SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Senate Bill 218.

NUGENT

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SENATE MOTION

Madam President: I move that Senator Hershman be added as coauthor of Senate Bill 218.

NUGENT

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 218, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 7, after "damages" delete ";" and insert "**for injury to a person;**".

Page 1, line 12, delete "**(b)(2)**" and insert "**(b)(1)**".

Page 1, line 14, after "with" insert "**section 2 of**".

Page 1, line 15, after "with" insert "**section 2 of**".

Page 1, after line 17, begin a new paragraph and insert:

**"(d) The defendant in an action described in subsection (b)(2) has the burden of proving:**

**(1) noncompliance with this chapter;**

**(2) that compliance with this chapter would have reduced injuries; and**

**(3) the extent of the reduction."**

and when so amended that said bill do pass.

(Reference is to SB 218 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 6, Nays 5.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 218, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

RIPLEY, Chair

Committee Vote: yeas 7, nays 5.

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